

## § 1479.118

(2) Grown under man-made canopies that provide 75 to 80 percent shade coverage;

(3) Grown in well drained media with a pH adjustment of at least 5.5 and which protects plants from disease; and

(4) Grown with sufficient fertility and weed control to obtain expected production results of ginseng root and seed.

(g) Evidence of the above ginseng practice requirements must be provided by the producer if requested by the county committee. Any ginseng that is grown under cultivated practices or simulated wild or woodland conditions that do not meet these requirements is not eligible for disaster assistance under this part.

(h) Because ginseng is a perennial crop, the producer must provide annual crop history to establish when the loss occurred and the extent of such loss. If the producer does not or is unable to provide annual records to establish the beginning inventory, before the loss, and ending inventory, after the loss, production shall be assigned by the county committee.

(i) Aside from differences provided for in this section, all other conditions for eligibility contained in this part shall be applied to value loss crops.

### § 1479.118 Other provisions for specialty crops.

(a) For turf-grass sod, disaster benefits under this part are limited to turf grass sod that would have matured and been harvested during 2003, 2004, or 2005, when a disaster caused in excess of 35 percent of the expected production to die.

(b) For honey, disaster benefits under this part are limited to table and nontable honey produced commercially for human consumption. For calculating benefits, all honey is considered a single crop, regardless of type or variety of floral source or intended use.

(c) For maple sap, disaster benefits under this part are limited to maple sap produced on private property in a controlled environment by a commercial operator for sale as sap or syrup. The maple sap must be produced from trees that are: located on land the producer controls by ownership or lease; managed for production of maple sap;

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and are at least 30 years old and 12 inches in diameter.

### § 1479.119 2005-crop losses only.

(a) Producers may be eligible for assistance under this part for 2005 crop losses in counties declared Presidential disaster areas due only to a hurricane or tropical storm that occurred during the 2004 hurricane season June 1 through November 30, 2004, as defined by the National Oceanic and Atmospheric Administration.

(b) All provisions of this part including linkage, AGI, conservation compliance, 95% payment cap and \$80,000 payment limitation are applicable to such 2005-crop claims.

(c) Persons that received assistance under section 32 of the Act of August 25, 1935 for losses due to Hurricanes Charley, Frances and/or Jeanne are not eligible for assistance under this provision.

### § 1479.120 Quality losses for 2003, 2004, and 2005 crops.

(a) Subject to other provisions of this part, CCC funds shall be made available for assistance to producers determined eligible under this section for crop quality losses greater than 20 percent of the value the affected production of the crop would have had if the crop had not suffered a quality loss. The per unit amount of a quality loss for a producer's crop shall be equal to the difference between:

(1) The unit market value of the units of the crop affected by the quality loss had the crop not suffered a quality loss; and

(2) The per-unit market value of the units of the crop affected by the quality loss.

(b) The amount of payment for a quality loss shall be equal to 65 percent of the quantity of the crop affected by the quality loss, multiplied by 65 percent of the per unit quality loss for the crop as determined by the Deputy Administrator.

(c) This section will apply to all crops eligible for 2003, 2004, and 2005 crop disaster assistance under this part, and will apply to crop production that has a reduced economic value due to the reduction in quality.

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(d) Persons may not be compensated under this section to the extent that such producers have received assistance under § 1479.116 through § 1479.118, or other provisions of this part, attributable in whole or in part to diminished quality.

### § 1479.121 Virginia crop losses.

(a) In addition to CDP benefits for 2004, or 2005, producers with crop losses located in the Commonwealth of Virginia may be eligible for disaster assistance for crop losses that resulted from hurricanes, tropical storms, and other weather related disasters that occurred during the calendar year 2003 only.

(b) \$50 million will be available for such disaster assistance until expended.

(c) All provisions of this part limiting payments, including crop insurance and NAP purchase requirements, adjusted gross income provisions, conservation compliance, 95% payment cap related to expected revenue, and the \$80,000 per person per year payment limitation are applicable to assistance received under this section.

### § 1479.122 North Carolina fruit and vegetable crop losses.

(a) In addition to CDP benefits for 2004 or 2005, but not both, producers with fruit and vegetable losses located in the State of North Carolina may be eligible for disaster assistance for these crop losses that resulted from hurricanes, tropical storms, and other weather related disasters that occurred during the 2003 calendar year only.

(b) \$3 million will be available for such additional disaster assistance until expended.

(c) All provisions of this part limiting payments, including crop insurance and NAP purchase requirements, adjusted gross income provisions, conservation compliance, 95% payment cap related to expected revenue, and the \$80,000 per person payment limitation, are applicable to assistance received under this section.

### § 1479.123 Misrepresentation, and scheme or device.

(a) A producer who is determined to have erroneously represented any fact

affecting a program determination made in accordance with this part shall not be entitled to disaster payments and must refund all such payments received, plus interest as determined in accordance with part 1403 of this chapter.

(b) A producer shall refund to CCC all disaster payments, plus interest as determined in accordance with part 1403 of this chapter, received by such producer with respect to all applications under this part if the producer is determined to have knowingly done any of the following:

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

### § 1479.124 Offsets, assignments, and debt settlement.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this chapter apply to any payments made under this part.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing the assignment of payments found at part 1404 of this chapter.

(c) A debt or claim may be settled according to part 1403 of this chapter.

### § 1479.125 Compliance with highly erodible land and wetland conservation provisions.

(a) The highly erodible land and wetland conservation provisions of part 12 of this title apply to the receipt of disaster assistance for 2003, 2004, and 2005 crop losses made available under this authority.

(b) All eligible producers must be in compliance with the highly erodible